



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 3090-00
6 July 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased spouse's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 8 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

8 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS (BCNR)

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]

Ref: (a) BCNR memo of 5 May 00
(b) DoD Financial Management Regulation Volume 7B

1. Per reference (a), recommend the BCNR not correct [REDACTED] record to reflect a waiver of the requirement to live for two years when enrolled in the 1 April 1992 - 31 March 1993 Survivor Benefit Plan (SBP).

2. The recommendation is based on the following:

a. [REDACTED] transferred to the Retired List on May 1957.

b. LTJG and [REDACTED] were married 15 October 1982. He died on 8 January 1994.

c. [REDACTED] enrolled in SBP during the 1 April 1992 - 31 March 1993 open season enrollment period. His effective date of enrollment was 1 May 1992. Public Law 101-189 states in part that a member who enrolls in SBP during the open season must meet the two-year survival period beginning on the cost effective date. He did not meet the required two-year survival period to allow his spouse to receive an annuity.

3. Per reference (b), if a member has no eligible beneficiaries and later marries or remarries, he or she may within 1 year enroll in SBP. [REDACTED] states that [REDACTED] made several attempts to obtain information from the Defense Finance and Accounting Service-Cleveland (DFAS-CL) regarding enrollment in SBP soon after their marriage and was told they he had to wait two years to enroll. Based on the overall information provided, there is not sufficient evidence that either [REDACTED] or [REDACTED] officially advised DFAS-CL of their marriage by forwarding a marriage license (this may have prompted DFAS-CL to provide advice on SBP enrollment options).

Subj: COMMENTS AND RECOMMENDATION ICO [REDACTED]
[REDACTED]

4. The publication "Shift Colors" (the retirees' quarterly newsletter) regularly provides information on various aspects of SBP. This newsletter, as well as periodicals from various Navy fraternal organizations, provides SBP information to the retired community on a routine basis. Additionally, the Retired Activities Branch, PERS-622 and the local Retired Activities Offices (RAOs) have been available for specific information since LTJG Carver's retirement.

[REDACTED]
Head, Navy Retired Activities
Branch (PERS-622)